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IN THE

Supreme Court of the United States

OCTOBER TERM, 1961

No. 104

RELIANCE PICTURE FRAME COMPANY,

Petitioner,

v.

COVENTRY WARE, INC.,

Respondent.

PETITION FOR REHEARING

RAYMOND A. WERCHEN,
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New York City.

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RELIANCE PICTURE FRAME COMPANY,

Petitioner,

v.

COVENTRY WARE, INC.,

Respondent.

PETITION FOR REHEARING

Petitioner presents its petition for a rehearing of this Court's order dated October 9, 1961, denying the petition for a writ of certiorari to the United States Court of Appeals for the Second Circuit, and, in support thereof, respectfully urges:

Grounds for Rehearing

The petition for certiorari was denied, without opinion.

Filed with the petition for certiorari in this copyright infringement action is a duly certified exhibit of a plaque which purports to contain a notice of copyright in conformity with the requirements of the Copyright Statute.

The conformity of the notice on the plaque with such requirements is the essence of this controversy.

In the absence of an opinion, it is not known whether the members of the Court made a visual examination of the filed plaque before their determination of the petition for certiorari.

If such visual examination was made, then petitioner has had its full day in court and this petition for rehearing should be denied.

But if no such visual examination was made, then the Court's determination may be a frustration, even though inadvertent, of the deliberative judicial process in which the petitioner placed its faith for approbation or condemnation of its actions.

The plaque and the petition for certiorari are as one, and the questions presented in that petition cannot be fully appreciated, except in the visual perspective of the plaque.

For analogy, it is as the brief and record of the testimony after a full trial. The plaque is the vital "testimony" in this case.

It is respectfully urged, as set forth in the petition for certiorari, that the plaque does not contain a notice of the quality upon which the Copyright Statute ought to grant a monopoly.

Accordingly, if there was no visual examination of the plaque, such omission would seem to constitute an intervening circumstance of substantial effect upon which a petition for rehearing should be granted.

Conclusion

It is respectfully urged that the petition for rehearing be granted and that, upon further consideration, a writ of certiorari issue to the United States Court of Appeals for the Second Circuit.

RAYMOND A. WERCHEN
Counsel for Petitioner

Certificate of Counsel

I, RAYMOND A. WERCHEN, counsel for the above-named petitioner, do hereby certify that the foregoing petition for rehearing is presented in good faith and not for delay, and that it is restricted to the grounds specified in Rule 58, subdivision 2, of the Rules of this Court.

RAYMOND A. WERCHEN
Counsel for Petitioner

October 17, 1961